

Notice of Allowability

Application No.

10/572,868

Examiner

GAILENE R. GABEL

Applicant(s)

ODEFEY, CONSTANTIN

Art Unit

1641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicant's amendment filed 12/10/08 and Interview Summary on 2/4/09.
2. ☒ The allowed claim(s) is/are claims 1-8.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.
- Identifying Indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date ____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 2/4/09
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other ____.

/GAILENE R. GABEL/
Primary Examiner, Art Unit 1641

2/4/09

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Dr. Joseph Guy on February 4, 2009.

2. The application has been amended as follows:

In claim 1, "detecting step" in the last three lines after, "the signal strength depending on the "size and number of" has been deleted; and then after "antigen-antibody", "precipitates formed" has been deleted and --precipitate concentration-- has been inserted therefor.

Claim 3 has been rejoined.

In claim 3, step b) line 1 after "providing", "a second" has been deleted and --an aliquot of-- has been inserted therefor.

Claim 4 has been rejoined.

In claim 4, lines 5-7 after "the filter having a pore size of", "preferably" has been deleted, and then after "20 – 450 nm," "more preferably of" has been deleted and --or-- has been inserted therefor. Thereafter, after "100 – 300 nm," "and particularly of" has been deleted and --or--has been inserted therefor.

In claim 5, line 3 after "at least one", "antibody selected from" has been deleted and --of-- has been inserted therefor.

Claims 9 and 10 have been cancelled.

REASONS FOR ALLOWANCE

3. The following is an examiner's statement of reasons for allowance: prior art of record fails to teach or fairly suggest detecting a signal produced by antigen-antibody precipitates formed by antigens with a maximum particle size and having at least two antibody binding sites which react with and bind to a plurality of antibodies which have a maximum particle size, according to the "lock-and-key principle"; thereby, resulting to cross-linking or occurrence of precipitation. Detection of the precipitates formed is specifically performed by directing a light beam through the resultant mixture and then measuring with a photodetector the extinction at the light-dark boundary of the cone of light formed by light scattered forward as the light passes through the measuring cell containing the reaction mixture (page 5, lines 24-32 and page 8, line 32 to page 9, line 9).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to GAILENE R. GABEL whose telephone number is (571)272-0820. The examiner can normally be reached on Monday, Tuesday, and Thursday, 5:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark L. Shibuya can be reached on (571) 272-0806. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/GAILENE R. GABEL/
Primary Examiner, Art Unit 1641

February 4, 2009